

Reference Guide for City and County Governments

OF THE MISSISSIPPI STATE TAX COMMISSION
OFFICE OF ALCOHOL BEVERAGE CONTROL (ABC)

This publication provides general information and does not constitute a regulation of the Alcohol Beverage Control Office of the State Tax Commission. Please be aware that legislation, regulations, court decisions, notices and announcements could affect the accuracy of this publication. Please refer to the Mississippi Code 1972 Annotated and the Mississippi Administrative Code for the most current version of the law and administrative procedures of the Mississippi Tax Commission and the Office of Alcohol Beverage Control. Up-to-date information is available online at www.mstc.state.ms.us/abc/main.htm.

September, 2008.

Table of Contents

The Office of ABC	6
Administration	6
Purchasing	6
Accounting and Processing	6
Warehouse	7
Enforcement and Permits	7
Hard Liquor vs. Beer, What's the Difference?	8
ABC Permits.....	8
Beer and Light Wine Permits	9
Suspension and Revocation of ABC Permits.....	9
Suspension and Revocation of Beer and Light Wine Permits	9
Wet and Dry Areas for Alcohol.....	9
Wet/Dry Map for Alcohol	10
Wet and Dry Areas for Beer and Light Wine	9
Wet/Dry Map for Beer and Light Wine	11
Hours of Sale, Alcohol Beverages	9
Hours of Sale, Beer	12
Distance Requirements, Alcohol Beverages.....	12
Distance Requirements, Beer and Light Wine	12
Resort Areas	12
Food Percentage	13
Brown-Bagging.....	13
Elections and Referendums, Alcohol Beverages	13
Elections and Referendums, Beer	13
Taxes.....	14

Selected State Code and Regulations

Permit Rees

§ 27-71-5	Annual privilege taxes and other fees; permits; penalties; prohibition of alcohol beverages in public places.....	15
§ 27-71-345	Privilege tax to be levied by municipality	16

Alcohol Beverages

§ 67-1-3	Prohibition re-announced as law of State	17
§ 67-1-5	Definitions	17
§ 67-1-9	Alcohol beverages prohibited except as authorized in this chapter; penalties.....	20
§ 67-1-11	Local option election to render chapter effective in county.....	20
§ 67-1-13	Local option election to render chapter ineffective in county.....	21
§ 67-1-15	Local option elections in counties having two judicial districts	21
§ 67-1-19	Administration of chapter	22
§ 67-1-37	Powers and duties of commission	22
§ 67-1-41	Commission as a wholesale distributor and seller of alcohol beverages; exception to commission's exclusive right to sell at wholesale	25
§ 67-1-51	Permits; distance regulations; prohibition on ownership of more than one package retailer's permit; prohibition on ownership of additional permits by person living in same household	26
§ 67-1-57	Qualifications of applicants	29

Beer

§ 67-3-1	Declaration of purpose	30
§ 67-3-7	Local option elections in county	30
§ 67-3-9	Local option elections in certain municipalities	31
§ 67-3-27	Licenses	32
§ 67-3-53	Unlawful acts.....	32
§ 67-3-65	Powers of local governments	33

Regulations, Alcohol Beverages

35.II.1.03	Permitted premises where alcohol beverages are sold	33
35.II.1.04	Hours and days during which alcohol beverages may be sold by hotels, restaurants, clubs, package stores and caterers.....	34
35.II.2.07	Temporary and qualified resort areas.....	35

Introduction

On July 1, 1966, Mississippi's Local Option Laws became effective providing each county in the state the option to vote on whether to allow hard liquor in their communities. It was at this same time the legislature confirmed that the policy of this state would be to "favor" the prohibition of hard liquor in Mississippi.¹ The Mississippi Alcohol Beverage Control, a division of the State Tax Commission, was created in the same legislation for the purpose of enforcing the liquor laws and for the distribution of alcohol products in this state.²

Mississippi is a "control state" (along with 17 other states) meaning it exercises complete control over the wholesale distribution of alcohol beverages.³ All legal alcohol entering Mississippi from manufacturers must be shipped directly to the ABC's Liquor Distribution Center (LDC) located in Gluckstadt, Mississippi. From there it is shipped to licensed retailers for sale to the public. The ABC oversees the issuance of all retail licenses which includes an investigative process along with suitability finding on the permittee's location. The Office of ABC is made up of five separate branches to accomplish its mission:

Administration

The Director of the Office of ABC is appointed by the Commissioner of Revenue and oversees the daily functions of the LDC.



ABC Director Patsy Holeman and ABC Warehouse Manager Jamie Eubanks discuss warehouse inventory.

Purchasing

The Purchasing Division of the ABC is responsible for the registration of alcohol vendors and their products. Additionally, the Purchasing Division produces and disseminates the quarterly price booklet, handles orders of special products, and provides inventory control. Currently, the ABC lists about 4,100 items.



Keith Treadwell of Southern Wine & Spirits of America discusses a new product line with ABC Purchasing Agents.

Accounting and Processing

The Accounting/Processing Division has two primary functions. The first is to receive and process orders from retailers through the internet, telephone, mail, fax and walk-ins. The second function is preparing invoices to vendors, collection of taxes (including the 27.5% markup on sales,) and calculation of the distribution on revenue derived from the sale of alcohol beverages.



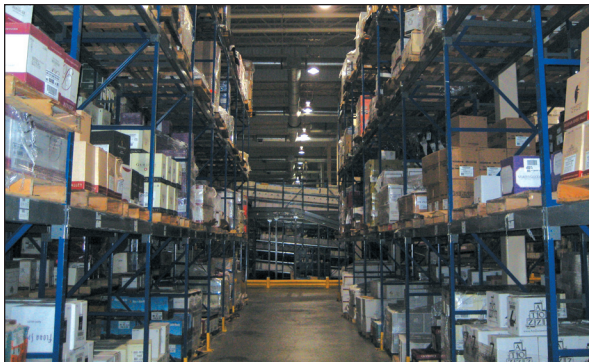
An ABC Processing Clerk keys in a telephone order from a retailer.

Warehouse

The Warehouse Division receives shipments from vendors and ships orders to retailers. On the average, about 50,000 cases of alcohol products are shipped to licensed retailers weekly. That number of cases sold and shipped increases substantially during the holiday season from October through New Year's Day. Inventory stored at the LDC averages about 375,000 cases with an estimated value of approximately \$28.5 million. The state owns very little of the inventory; most of the inventory is owned by the manufacturers and is held on bailment for sale to retailers.



The 211,000 sq.ft. Liquor Distribution Center in Gluckstadt, MS was built in 1982.



The controlled climate wine room at the ABC Warehouse. 40% of the alcoholic beverages carried by ABC are wines.

Enforcement and Permits

The Enforcement and Permit Divisions are directed by the ABC Chief of Enforcement. The Chief of Enforcement is appointed by the Commissioner of Revenue. Enforcement is responsible for the enforcement of Mississippi's liquor laws and beer sales to minors, and for conducting background investigations on permit applicants. The Permit Division is responsible for receiving and processing applications for permits and for maintaining current information on about 1,500 permit holders.



An ABC Enforcement Agent destroys a still in Rankin County, Mississippi.



An ABC Enforcement Agent issues a citation to a minor for unlawful possession of alcoholic beverages.

Hard liquor vs. beer... what's the difference?

Beer was legalized in Mississippi on February 26, 1934.⁴ Although it contains alcohol, beer is not considered an “alcohol beverage” by the Local Option Laws and is regulated differently from distilled spirits and wine.

Beer is a malt-based beverage that has no more than 5% alcohol by weight. Beer that has alcohol content greater than 5% by weight is not legal in Mississippi.⁵ Products that are wine-based and the alcohol content is less than 5% by weight are regulated like beer. These are called light wine products and are seen in the market typically as wine coolers. Beer and light wine cannot be sold in package stores. Likewise, alcohol beverages cannot be sold in convenience or grocery stores.

An alcohol beverage is either a distilled spirit or a wine product that contains more than 5% alcohol by weight.⁶ Products that are spirit-based (liquor) and that are less than 5% by weight are not legal in Mississippi. Alcohol beverages are most often identified as items you may purchase in package stores.

Licensed beer retailers must purchase beer and light wine through independent, privately owned, licensed wholesalers. Liquor and wine may only be purchased for resale through the ABC, or from another permitted retailer who has also been licensed to sell to permitted retailers. Consumers may only purchase alcohol beverages from permitted retailers.

There are separate permits for beer and alcohol beverages, both issued through the Tax Commission. A beer permit may be applied for at one of the agency's district tax offices and it allows a retailer to sell beer and light wine at his licensed premises.⁷ For beer and light wine, this permit can be for on-premises or off-premise sales. The laws regulating beer also allow either the municipality or county (depending on where the retailer is located) to issue a “local” beer permit.⁸

The permit to sell alcohol beverages is issued by the State Tax Commission. There is no provision in law for a municipality or county to issue a permit for the sale of alcohol beverages.

There are separate elections required for a local community to vote itself wet/dry for beer or alcohol beverages.⁹

ABC Permits

The authority to issue permits to sell alcohol beverages is solely within the authority of the State Tax Commission.¹⁰ While local government bodies or individual groups may object to the issuance of a permit and may request a hearing on the matter, the final decision on whether to issue a permit is made by the State Tax Commission.

Permits to sell alcohol beverages are only issued within the boundaries of a municipality unless that permittee is located within a resort area, or the applicant is a qualified, non-profit club.

ABC permits generally fall under two categories: on-premise and off-premise. On-premise permits allow for the consumption of alcohol beverages inside the permit holder's place of business such as a restaurant, casino, private club, or hotel. Alcohol beverages purchased at an on-premise business can not be taken outside the business. Consequently, “go-cups” are not allowed and you cannot take an unfinished drink (or unfinished bottle of wine) away from the business.

The only off-premises permit available in Mississippi is for retail package outlets. Package retailers are only allowed to sell alcohol beverages by the bottle for consumption away from the package store. The consumption of alcohol beverages inside a package store is prohibited.

Generally, it takes 4-6 weeks to process an application for an ABC permit. ABC Enforcement Agents conduct

background investigations to make sure the applicant and location meet all requirements of the Local Option Laws.¹¹ This investigation is comprehensive and includes checking criminal records including a national FBI check, civil records, and distance requirements as established by state law.

Local officials (Sheriff, Chiefs of Police, and Mayors) are given notice of applications in their respective jurisdictions that include the applicant's name and business location. Once this investigation is complete, the permit is placed on the Commission agenda for approval. If there is an issue that would prohibit the issuance of a permit and it is initially denied, the applicant has an opportunity, within 15 days of the Commission's decision, to appeal and request a hearing on the matter.

Anyone in opposition to a permit being issued to an applicant may request a hearing before the Commission. The request for a hearing must be in writing and addressed to the ABC Chief of Enforcement. This request must include the reason(s) that the permit should be denied and must include sufficient contact information of the requesting party.

Beer and Light Wine Permits

Permits for beer and light wine are different from ABC Permits. Permits for beer and light wine are obtained from the local Tax Commission district office, not the ABC. There is no differentiation for on-premises and off-premises permits which means beer and light wine retailers can sell for consumption on or off the licensed premises. Under state law, local governments may prescribe ordinances regarding the sale of beer and light wine such as distances from schools and churches and hours of sale. However, when the hours of sale for ABC-permitted, *on-premises* businesses have been extended past midnight, the hours of sale for beer at these establishments is likewise automatically extended.

Suspension and Revocation of ABC Permits

The State Tax Commission holds sole authority regarding the suspension and revocation of ABC permits. Local governments do not have the authority to suspend or revoke ABC permits. The Commission's decision to suspend or revoke a permit can be appealed to the Chancery Court of the county where the permit is located.

Suspension and Revocation of Beer and Light Wine Permits

The State Tax Commission and the Circuit and County Courts share jurisdiction over the suspension and revocation of beer and light wine permits.

Wet and Dry areas for alcohol

FIGURE 1, PAGE 12

Currently, there are 34 counties in Mississippi that are completely dry for hard liquor. In addition to this, there are 4 counties that are "half" dry because the county has two judicial districts and each district can have an independent election. There are several locations in the dry areas of the state that are legal for liquor and wine sales due to legislative action. Generally, liquor sales must be approved by a county-wide vote, but state law allows for special elections, such as when a municipality is co-located in a wet and dry county, as for example Hattiesburg. In this situation, the citizens in the dry area of the municipality vote on the sale of liquor. By state law, referendums to determine if a county will be wet or dry for liquor can only be held every two years.

Wet and Dry areas for beer and light wine

FIGURE 2, PAGE 13

There are 36 counties in Mississippi that are dry for beer sales. Within these 36 counties, there are numerous municipalities that are wet for beer sales. These are municipalities that have voted to allow beer sales or are in qualified resort areas. Unlike the laws dealing with hard liquor, a municipality with a population over 2,500 located in a dry county for beer or liquor may hold an election to allow legal beer sales within the city. Referendums on the sale of beer can only be held every 5 years.

Hours of sale, Alcohol Beverages:

Package stores may only open for business from 10:00 a.m. to 10:00 p.m., Monday through Saturday. Package stores are not allowed Sunday sales and cannot open on Christmas Day.¹²

On-premises permittees may make sales of alcohol beverages at the permitted location between 10:00 a.m. and midnight, Monday through Saturday.

Sales after midnight and Sunday sales by on-premises permittees may only occur if the hours for sale have been

Wet and Dry Areas for Alcohol

FIGURE 1

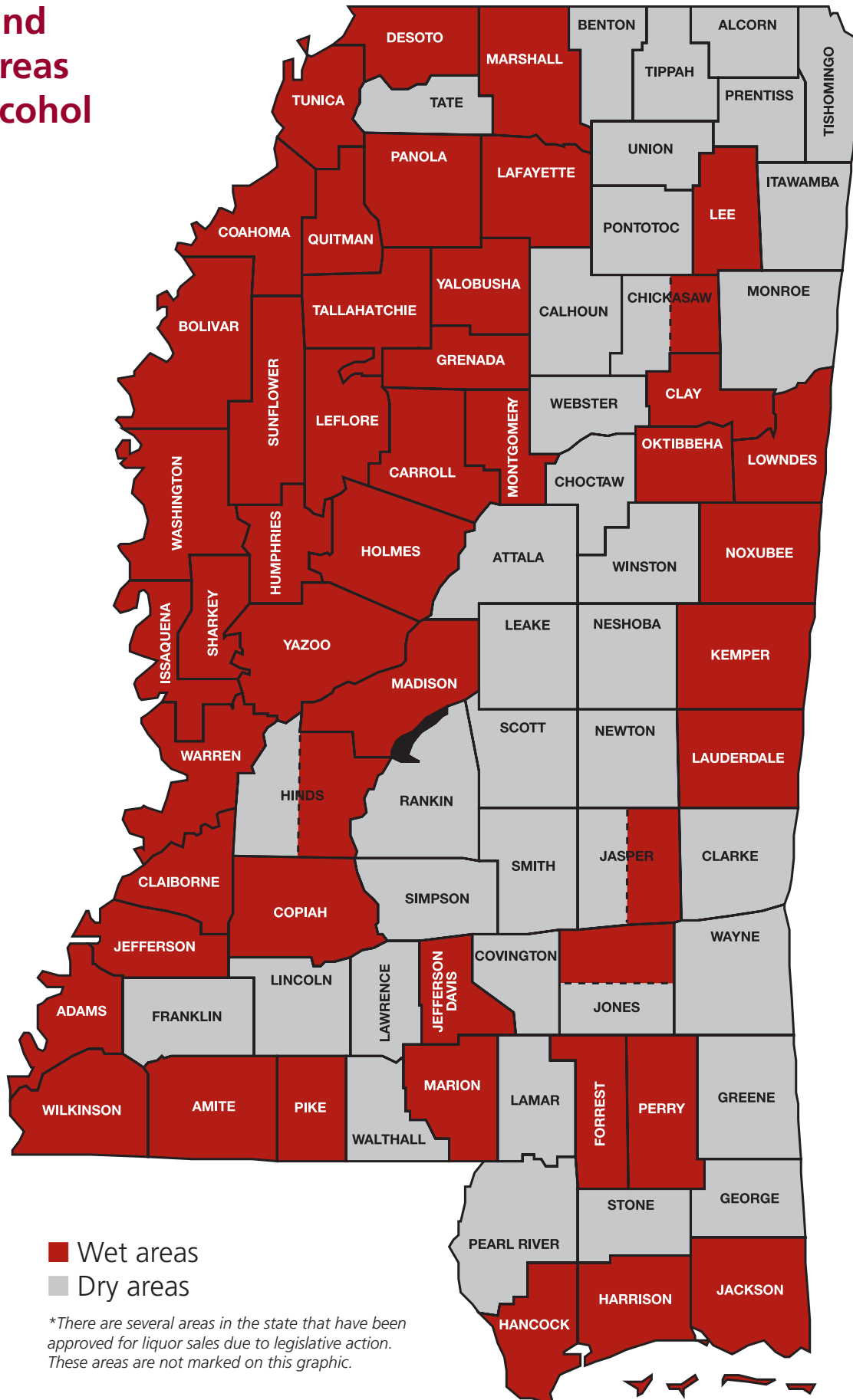


FIGURE 2



REFERENCE GUIDE FOR CITY AND COUNTY GOVERNMENTS 11

extended by the State Tax Commission. The governing body of a municipality or county may petition the State Tax Commission to extend or shorten the hours for on-premises sales. (The petition by the county is for areas outside municipal boundaries.) The petition must include a certified copy of the order of the governing authority requesting that the hours be extended.

On New Years Eve, on-premises permittees may remain open an additional hour which is until 1:00 a.m. New Years Day. If New Year's Eve falls on Sunday, on-premises permittees may open from 1:00 p.m. to 1:00 a.m. If a municipality or county does not want sales New Year's Eve that falls on Sunday, the governing body must notify (in writing) ABC Enforcement of its desire to require its businesses to remain closed. This notice must be received no later than September 1 of that year.

On-premises permittees in areas that have been granted resort status by the Commission are exempt from the above hours-of-operation restrictions. Package stores in resort areas are not exempt from the hours of operation set forth above. A municipality or county may petition the Commission to designate the hours for on-premise permittees within resort areas. The petition must contain a certified order of the governing body with its request. The Commission will take such petition into consideration when determining the hours of operation within a resort area.

Sales of alcohol beverages are not limited or restricted on Election Days. Local governments cannot restrict the sale of alcohol beverages by package stores or on-premises ABC permittees on Election Days.

Hours of Sale, Beer

Beer may be sold for off-premises consumption 24/7; however, the hours for sale for consumption off-premises may be restricted by local ordinance. Sales on Sunday may also be restricted by local ordinance.

State law establishes the hours for on-premises sales of beer from 7:00 a.m. to midnight, seven days a week.¹³ Municipal or county governments may, by ordinance, further restrict but not extend those hours.¹⁴

If the hours for selling alcohol beverages have been extended by the Commission, then the hours for beer sales is extended to the same hours of sale as alcohol beverages for that community or resort area.¹⁵

Distance Requirements, Alcohol Beverages

Alcohol beverages cannot be offered for sale within 400 feet of a school, church, kindergarten, children's day care or a funeral home. The minimum distance is measured from the nearest point to the nearest point of the permittee's establishment and the church, school building, etc. However, if the area is zoned commercial or industrial, the minimum distance is 100 feet from the church, school etc. If the church, school, kindergarten, or funeral home is in an area that is zoned residential and the permittee is in an area zoned commercial, then the distance is 400 feet.

A church or funeral home can waive the distance requirements; however, a school, kindergarten or day care cannot waive the distance requirement. The waiver must be in writing from the owner, governing body or appropriate officer of the church or funeral home.¹⁶

Distance Requirements, Beer

A municipality or county may, by ordinance, define zones or territories where beer may be sold.¹⁷

Resort Areas

The law describes a resort area as a place which is regularly and customarily known to attract tourists because of its historical, scenic or recreational facilities or attractions. A resort area must be approved by the Commission.

A resort area's hours are set by the Commission and may be 24/7. A municipality or county may petition the Commission to designate hours of sale within a resort to be less than 24/7, however the decision concerning hours of sale is ultimately made by the Commission.

A permittee within a resort area is not required to meet the food-sales percentage as required of other on-premises permittees. A permittee within a resort area must meet all distance requirements unless specifically exempt by law.

A community may apply for resort status by submitting an application from the president of the board of supervisors or the mayor of a municipality to the Commission. If the governing authority does not submit the application for resort status, then a petition signed by at least 100 adult citizens of the affected community must be submitted with the application.

Information required to be included in the application include:

- a map indicating the area under consideration
- explanation why the area should be a resort
- endorsements by civic clubs in the area under consideration
- assurance from the Sheriff and/or police chief that he will enforce the alcohol laws in the area
- a certified copy of the order from the governing body
- proof of publication of legal notices and all public opinion responses

Individuals, adjacent areas, or persons within the affected area may file objections to the application with the Commission.¹⁸

Food Percentage

The law requires that a restaurant who possesses an ABC permit must derive 25% or more of its revenue from the sale of prepared food.¹⁹ A caterer must have 40% or more of its revenue from the sale of prepared food.²⁰ A permittee within a resort area is not required to meet the food-sales percentage as required of other on-premises permittees.

Brown-bagging

An on-premises ABC permittee shall not allow brown-bagging on his licensed premises.

However, the law does not prohibit a beer (only) permittee from allowing consumers/customers from brown-bagging legally purchased alcohol beverages at his premises if in a county wet for alcohol. (If the beer permittee is located in a dry county for alcohol, brown-bagging and/or possessing alcohol beverages is illegal.) A beer (only) permittee may sell set-ups to the customer, but may not store on his premises, serve, or otherwise prepare cocktails with brown-bag alcohol beverages. A beer (only) permittee may charge a corkage fee to allow customers to brown-bag.

Elections and Referendums, Alcohol Beverages

Under the Local Options Laws, a county is presumed dry until an election is made to come out from under prohibition. Upon receipt of a petition signed by at least 20% or 1,500, whichever is less, of the qualified electors of the county, the board of supervisors must call an election for or against the legal sale of alcohol beverages.

The election is not to be held less than 60 days from the receipt of the petition. Notice of the election must be published in some newspaper in the county once a week for three consecutive weeks. If the county does not have a newspaper, the notice must be published in a newspaper in an adjacent county that has general circulation in the county involved.²¹

A county may also have an election to vote to discontinue the sale of alcohol beverages. Upon receipt of a petition signed by at least 20% or 1,500, whichever is less, of the qualified electors of the county, the board of supervisors must call an election as outlined above.²² An election for or against the sale of alcohol beverages may not be made in any county more than once every two years.

The election shall be conducted in the same manner provided for holding general elections. Once the outcome of the election is determined, the election commissioners shall certify the results to the board of supervisors. The board must enter said results into its minutes and provide its order and certified election results to the ABC.

Unless provided specific authority by law, a municipality may not hold an independent election to come out from under prohibition.

Elections and Referendums, Beer

The Beer Law and Local Option Laws provide for local elections to determine whether or not to allow beer or alcohol beverages to be sold in their communities.

Beer law provides that a vote to allow beer sales within a county will be held upon receipt by the board of supervisors of a petition signed by 20% of the qualified electors of the county. Likewise an election can be set to discontinue the sale of beer within the county upon receipt by the board of supervisors of a petition signed by 20% of the qualified electors of the county. Neither election may be held in any one county more often than once every five years.²³

Any municipality with a population of at least 2,500 people may vote to allow or prohibit the sale of beer within that municipality. The election will be called upon receipt by the governing authority of the city of a petition signed by 20% of the qualified electors of the city. An election to allow or prohibit the sale of beer may not be made in any city more than once every five years.²⁴

If the electorate should vote to allow for the sale of beer, or to discontinue the legal sale of beer within the county or city, the governing authority must provide a certified copy of the election results to the Miscellaneous Tax Bureau of the Tax Commission.

Taxes

There is an additional license tax imposed on each permittee (except a common carrier, solicitor or temporary permittee) for the privilege of doing business with any municipality or county in which the licensee is located.

The amount of the fee is equal to the amount charged for the state's license fee and is collected by the ABC. If the permittee is located in a municipality, the fee collected is returned to that municipality. If the permittee should be located outside a municipality, the fee collected is returned to the county.²⁵

Municipalities share in the sales tax collected from the sale of alcohol beverages in the same manner as other sales taxes collected within municipal borders. Neither municipalities nor counties share in the excise taxes collected on alcohol products.

Selected State Code and Regulations

§ 27-71-5. Annual privilege taxes and other fees; permits; penalties; prohibition of alcohol beverages in public places.

(1) Upon each person approved for a permit under the provisions of the Alcohol Beverage Control Law and amendments thereto, there is levied and imposed for each location for the privilege of engaging and continuing in this state in the business authorized by such permit, an annual privilege license tax in the amount provided in the following schedule:

(a) Except as otherwise provided in this subsection (1), manufacturer's permit, Class 1, distiller's and/or rectifier's \$4,500.00

(b) Manufacturer's permit, Class 2, wine manufacturer \$1,800.00

(c) Manufacturer's permit, Class 3, native wine manufacturer per ten thousand (10,000) gallons or part thereof produced \$10.00

(d) Native wine retailer's permit \$50.00

(e) Package retailer's permit, each \$900.00

(f) On-premises retailer's permit, except for clubs and common carriers, each \$450.00

On purchases exceeding Five Thousand Dollars (\$5,000.00) and for each additional Five Thousand Dollars (\$5,000.00), or fraction thereof \$225.00

(g) On-premises retailer's permit for wine of more than five percent (5%) alcohol by weight, but not more than twenty-one percent (21%) alcohol by weight, each..... \$225.00

On purchases exceeding Five Thousand Dollars (\$5,000.00) and for each additional Five Thousand Dollars (\$5,000.00), or fraction thereof \$225.00

(h) On-premises retailer's permit for clubs \$225.00

On purchases exceeding Five Thousand Dollars (\$5,000.00) and for each additional Five Thousand Dollars (\$5,000.00), or fraction thereof \$225.00

(i) On-premises retailer's permit for common carriers, per car, plane, or other vehicle \$120.00

(j) Solicitor's permit, regardless of any other provision of law, solicitor's permits shall be issued only in the discretion of the commission \$100.00

(k) Filing fee for each application except for an employee identification card \$25.00

(l) Temporary permit, Class 1, each \$10.00

(m) Temporary permit, Class 2, each \$50.00

On-premises purchases exceeding Five Thousand Dollars (\$5,000.00) and for each additional Five Thousand Dollars (\$5,000.00), or fraction thereof \$225.00

(n) (i) Caterer's permit..... \$600.00

On purchases exceeding Five Thousand Dollars (\$5,000.00) and for each additional Five Thousand Dollars (\$5,000.00), or fraction thereof \$250.00

(ii) Caterer's permit for holders of on-premises retailer's permit..... \$150.00

On purchases exceeding Five Thousand Dollars (\$5,000.00) and for each additional Five Thousand Dollars (\$5,000.00), or fraction thereof \$250.00

(o) Research permit \$100.00

If a person approved for a manufacturer's permit, Class 1, distiller's permit produces a product with at least fifty-one percent (51%) of the finished product by volume being obtained from alcohol fermentation of grapes, fruits, berries, honey and/or vegetables grown and produced in

Mississippi, and produces all of the product by using not more than one (1) still having a maximum capacity of one hundred fifty (150) liters, the annual privilege license tax for such a permit shall be Ten Dollars (\$10.00) per ten thousand (10,000) gallons or part thereof produced. Bulk, concentrated or fortified ingredients used for blending may be produced outside this state and used in producing such a product.

In addition to the filing fee imposed by item (k) of this subsection, a fee to be determined by the State Tax Commission may be charged to defray costs incurred to process applications. The additional fees shall be paid into the State Treasury to the credit of a special fund account, which is hereby created, and expenditures therefrom shall be made only to defray the costs incurred by the State Tax Commission in processing alcohol beverage applications. Any unencumbered balance remaining in the special fund account on June 30 of any fiscal year shall lapse into the State General Fund.

All privilege taxes imposed by this section shall be paid in advance of doing business. The additional privilege tax imposed for an on-premises retailer's permit based upon purchases shall be due and payable on demand.

Any person who has paid the additional privilege license tax imposed by item (f), (g), (h), (m) or (n) of this subsection, and whose permit is renewed, may add any unused fraction of Five Thousand Dollars (\$5,000.00) purchases to the first Five Thousand Dollars (\$5,000.00) purchases authorized by the renewal permit, and no additional license tax will be required until purchases exceed the sum of the two (2) figures.

(2) There is imposed and shall be collected from each permittee, except a common carrier, solicitor or a temporary permittee, by the commission, an additional license tax equal to the amounts imposed under subsection (1) of this section for the privilege of doing business within any municipality or county in which the licensee is located. If the licensee is located within a municipality, the commission shall pay the amount of additional license tax to the municipality, and if outside a municipality the commission shall pay the additional license tax to the county in which the licensee is located. Payments by the commission to the respective local government subdivisions shall be made once each month for any collections during the preceding month.

(3) When an application for any permit, other than for renewal of a permit, has been rejected by the commission, such decision shall be final. Appeal may be made in the manner provided by Section 67-1-39. Another application from an applicant who has been denied a permit shall not be reconsidered within a twelve-month period.

(4) The number of permits issued by the commission shall not be restricted or limited on a population basis; however, the foregoing limitation shall not be construed to preclude the right of the commission to refuse to issue a permit because of the undesirability of the proposed location.

(5) If any person shall engage or continue in any business which is taxable under this section without having paid the tax as provided in this section, the person shall be liable for the full amount of the tax plus a penalty thereon equal to the amount thereof, and, in addition, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for a term of not more than six (6) months, or by both such fine and imprisonment, in the discretion of the court.

(6) It shall be unlawful for any person to consume alcohol beverages on the premises of any hotel restaurant, restaurant, club or the interior of any public place defined in Chapter 1, Title 67, Mississippi Code of 1972, when the owner or manager thereof displays in several conspicuous places inside the establishment and at the entrances of establishment a sign containing the following language: NO ALCOHOL BEVERAGES ALLOWED.

Sources: Codes, 1942, § 10265-103; Laws, 1966, ch. 649, § 3; Laws, 1976, ch. 467, § 9; Laws, 1984, ch. 425, § 2; Laws, 1986, ch. 381; Laws, 1988, ch. 302, § 2; Laws, 1989, ch. 484, § 2; Laws, 1994, ch. 538, § 1; Laws, 2004, ch. 479, § 1; Laws, 2006, ch. 529, § 1, eff from and after passage (approved Apr. 3, 2006.)

§ 27-71-345. Privilege tax to be levied by municipality.

Any municipality, in which any business licensed under the provisions of Section 67-3-27, Mississippi Code of 1972, may be carried on, shall have the right to impose upon persons engaged in such business an annual privilege tax of not more than fifty percent (50%) of the tax imposed by Section 27-71-303 of this article, and any county, in which any business licensed under the provisions of

Section 67-3-27, Mississippi Code of 1972, may be carried on outside of the territory taxed by municipalities, shall have the right to impose upon persons engaged in such business an annual privilege tax of not more than fifty percent (50%) of the tax imposed by Section 27-71-303 of this article; provided, however, that no person engaged in the business of manufacturer, brewpub, wholesaler or distributor of light wines or beer shall be taxed by any municipality other than that in which the warehouse or plant of such wholesaler or distributor, or the premises of such brewpub, is located, nor shall any county impose any such tax upon such manufacturer, brewpub, wholesaler or distributor of light wines or beer if the place of business is located within the jurisdiction of any municipality.

Sources: Codes, 1942, § 10263; Laws, 1934, ch. 127; Laws, 1948, ch. 458, § 2; Laws, 1998, ch. 308, § 7, eff from and after July 1, 1998.

§ 67-1-3. Prohibition reannounced as law of State.

The policy of this State is reannounced in favor of prohibition of the manufacture, sale, distribution, possession and transportation of intoxicating liquor; and the provisions against such manufacture, sale, distribution, possession and transportation of intoxicating liquor, as contained in Chapter 31 of Title 97, Mississippi Code of 1972 and elsewhere, are hereby redeclared the law of this state. The purpose and intent of this chapter is to vigorously enforce the prohibition laws throughout the state, except in those counties and municipalities voting themselves out from under the prohibition law in accordance with the provisions of this chapter, and, in those counties and municipalities, to require strict regulation and supervision of the manufacture, sale, distribution, possession and transportation of intoxicating liquor under a system of state licensing of manufacturers, wholesalers and retailers, which licenses shall be subject to revocation for violations of this chapter.

All laws and parts of laws in conflict with this chapter are repealed only to the extent of such conflict; however, except as is provided in this chapter, all laws prohibiting the manufacture, sale, distribution and possession of alcohol beverages, which are not in conflict with this chapter shall remain in full force and effect, and all such laws shall remain in full force and effect in counties and

municipalities wherein the manufacture, sale, distribution and possession of alcohol beverages has not been authorized as a result of an election held under Section 67-1-11 or Section 67-1-14, Mississippi Code of 1972, or as otherwise provided in this chapter.

Sources: Codes, 1942, §§ 10265-01, 10265-36; Laws, 1966, §§ 1, 36; Laws, 1990, ch. 569, § 2, eff from and after passage (approved April 9, 1990).

§ 67-1-5. Definitions.

For the purposes of this chapter and unless otherwise required by the context:

- (a) "Alcohol beverage" means any alcohol liquid, including wines of more than five percent (5%) of alcohol by weight, capable of being consumed as a beverage by a human being, but shall not include wine containing five percent (5%) or less of alcohol by weight and shall not include beer containing not more than five percent (5%) of alcohol by weight, as provided for in Section 67-3-5, Mississippi Code of 1972, but shall include native wines. The words "alcohol beverage" shall not include ethyl alcohol manufactured or distilled solely for fuel purposes.
- (b) "Alcohol" means the product of distillation of any fermented liquid, whatever the origin thereof, and includes synthetic ethyl alcohol, but does not include denatured alcohol or wood alcohol.
- (c) "Distilled spirits" means any beverage containing more than four percent (4%) of alcohol by weight produced by distillation of fermented grain, starch, molasses or sugar, including dilutions and mixtures of these beverages.
- (d) "Wine" or "vinous liquor" means any product obtained from the alcohol fermentation of the juice of sound, ripe grapes, fruits or berries and made in accordance with the revenue laws of the United States.
- (e) "Person" means and includes any individual, partnership, corporation, association or other legal entity whatsoever.
- (f) "Manufacturer" means any person engaged in manufacturing, distilling, rectifying, blending or bottling any alcohol beverage.

(g) "Wholesaler" means any person, other than a manufacturer, engaged in distributing or selling any alcohol beverage at wholesale for delivery within or without this state when such sale is for the purpose of resale by the purchaser.

(h) "Retailer" means any person who sells, distributes, or offers for sale or distribution, any alcohol beverage for use or consumption by the purchaser and not for resale.

(i) "Commission" means the State Tax Commission of the State of Mississippi, which shall create a division in its organization to be known as the Alcohol Beverage Control Division. Any reference to the commission hereafter means the powers and duties of the State Tax Commission with reference to supervision of the Alcohol Beverage Control Division.

(j) "Division" means the Alcohol Beverage Control Division of the State Tax Commission.

(k) "Municipality" means any incorporated city or town of this state.

(l) "Hotel" means an establishment within a municipality, or within a qualified resort area approved as such by the commission, where, in consideration of payment, food and lodging are habitually furnished to travelers and wherein are located at least twenty (20) adequately furnished and completely separate sleeping rooms with adequate facilities that persons usually apply for and receive as overnight accommodations. Hotels in towns or cities of more than twenty-five thousand (25,000) population are similarly defined except that they must have fifty (50) or more sleeping rooms. Any such establishment described in this paragraph with less than fifty (50) beds shall operate one or more regular dining rooms designed to be constantly frequented by customers each day. When used in this chapter, the word "hotel" shall also be construed to include any establishment that meets the definition of "bed and breakfast inn" as provided in this section.

(m) "Restaurant" means a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation, which has suitable seating facilities for guests, and which

has suitable kitchen facilities connected therewith for cooking an assortment of foods and meals commonly ordered at various hours of the day; the service of such food as sandwiches and salads only shall not be deemed in compliance with this requirement. No place shall qualify as a restaurant under this chapter unless twenty-five percent (25%) or more of the revenue derived from such place shall be from the preparation, cooking and serving of meals and not from the sale of beverages, or unless the value of food given to and consumed by customers is equal to twenty-five percent (25%) or more of total revenue.

(n) "Club" means an association or a corporation:

(i) Organized or created under the laws of this state for a period of five (5) years prior to July 1, 1966;

(ii) Organized not primarily for pecuniary profit but for the promotion of some common object other than the sale or consumption of alcohol beverages;

(iii) Maintained by its members through the payment of annual dues;

(iv) Owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests;

(v) The affairs and management of which are conducted by a board of directors, board of governors, executive committee, or similar governing body chosen by the members at a regular meeting held at some periodic interval; and

(vi) No member, officer, agent or employee of which is paid, or directly or indirectly receives, in the form of a salary or other compensation any profit from the distribution or sale of alcohol beverages to the club or to members or guests of the club beyond such salary or compensation as may be fixed and voted at a proper meeting by the board of directors or other governing body out of the general revenues of the club.

The commission may, in its discretion, waive the five-year provision of this paragraph. In order to qualify under this paragraph, a club must file with the commission, at the time of its application for a license under this chapter, two (2) copies of a list of the names and residences of its members and similarly file, within ten (10) days after the election of any additional member, his name and address. Each club applying for a license shall also file with the commission at the time of the application a copy of its articles of association, charter of incorporation, bylaws or other instruments governing the business and affairs thereof.

(o) "Qualified resort area" means any area or locality outside of the limits of incorporated municipalities in this state commonly known and accepted as a place which regularly and customarily attracts tourists, vacationists and other transients because of its historical, scenic or recreational facilities or attractions, or because of other attributes which regularly and customarily appeal to and attract tourists, vacationists and other transients in substantial numbers; however, no area or locality shall so qualify as a resort area until it has been duly and properly approved as such by the commission.

(i) The commission may approve an area or locality outside of the limits of an incorporated municipality that is in the process of being developed as a qualified resort area if such area or locality, when developed, can reasonably be expected to meet the requisites of the definition of the term "qualified resort area." In such a case, the status of qualified resort area shall not take effect until completion of the development.

(ii) The term includes any state park which is declared a resort area by the commission; however, such declaration may only be initiated in a written request for resort area status made to the commission by the Executive Director of the Department of Wildlife, Fisheries and Parks, and no permit for the sale of any alcohol beverage, as defined in this chapter, except an on-premises retailer's permit, shall be issued for a hotel, restaurant or bed and breakfast inn in such park.

(iii) The term includes:

1. The clubhouses associated with the state park golf courses at the Lefleur's Bluff State Park, the John Kyle State Park, the Percy Quin State Park and the Hugh White State Park; and

2. The clubhouse and associated golf course where the golf course is adjacent to one or more planned residential developments and the golf course and all such developments collectively include at least seven hundred fifty (750) acres and at least four hundred (400) residential units. The status of these clubhouses and golf courses as qualified resort areas does not require any declaration of same by the commission.

(p) "Native wine" means any product, produced in Mississippi for sale, having an alcohol content not to exceed twenty-one percent (21%) by weight and made in accordance with revenue laws of the United States, which shall be obtained primarily from the alcohol fermentation of the juice of ripe grapes, fruits, berries or vegetables grown and produced in Mississippi; provided that bulk, concentrated or fortified wines used for blending may be produced without this state and used in producing native wines. The commission shall adopt and promulgate rules and regulations to permit a producer to import such bulk and/or fortified wines into this state for use in blending with native wines without payment of any excise tax that would otherwise accrue thereon.

(q) "Native winery" means any place or establishment within the State of Mississippi where native wine is produced in whole or in part for sale.

(r) "Bed and breakfast inn" means an establishment within a municipality where in consideration of payment, breakfast and lodging are habitually furnished to travelers and wherein are located not less than eight (8) and not more than nineteen (19) adequately furnished and completely separate sleeping rooms with adequate facilities, that persons usually apply for and receive as overnight accommodations; however, such restriction on the

minimum number of sleeping rooms shall not apply to establishments on the National Register of Historic Places. No place shall qualify as a bed and breakfast inn under this chapter unless on the date of the initial application for a license under this chapter more than fifty percent (50%) of the sleeping rooms are located in a structure formerly used as a residence.

Sources: Codes, 1942, § 10265-05; Laws, 1966, ch. 540, § 5; Laws, 1976, ch. 467, § 12; Laws, 1977, ch. 488, § 2; Laws, 1980, ch. 348, § 1; Laws, 1984, ch. 425, § 1; Laws, 1987, ch. 358; Laws, 1988, ch. 384; Laws, 1990, ch. 569, § 3; Laws, 1994, ch. 558, § 20; Laws, 1998, ch. 306, § 2; Laws, 1999, ch. 453, § 19; Laws, 2004, ch. 397, § 1, eff from and after July 1, 2004.

§ 67-1-9. Alcohol beverages prohibited except as authorized in this chapter; penalties.

(1) It shall be unlawful for any person to manufacture, distill, brew, sell, possess, import into this state, export from the state, transport, distribute, warehouse, store, solicit, take order for, bottle, rectify, blend, treat, mix or process any alcohol beverage except as authorized in this chapter. However, nothing contained herein shall prevent importers, wineries and distillers of alcohol beverages from storing such alcohol beverages in private bonded warehouses located within the State of Mississippi for the ultimate use and benefit of the State Tax Commission as provided in Section 67-1-41. The commission is hereby authorized to promulgate rules and regulations for the establishment of such private bonded warehouses and for the control of alcohol beverages stored in such warehouses. Additionally, nothing herein contained shall prevent any duly licensed practicing physician or dentist from possessing or using alcohol liquor in the strict practice of his profession, or prevent any hospital or other institution caring for sick and diseased persons, from possessing and using alcohol liquor for the treatment of bona fide patients of such hospital or other institution. Any drugstore employing a licensed pharmacist may possess and use alcohol liquors in the combination of prescriptions of duly licensed physicians. The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by such church shall not be prohibited by this chapter.

(2) Any person, upon conviction of any provision of this section, shall be punished as follows:

(a) By a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail not less than one (1) week nor more than three (3) months, or both, for the first conviction under this section.

(b) By a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment in the county jail not less than sixty (60) days, nor more than six (6) months, or both fine and imprisonment, for the second conviction for violating this section.

(c) By a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment in the State Penitentiary not less than one (1) year, nor more than five (5) years, or both fine and imprisonment, for conviction the third time under this section for the violation thereof after having been twice convicted of its violation.

Sources: Codes, 1942, § 10265-06; Laws, 1966, ch. 540, § 6; Laws, 1985, ch. 412; Laws, 1993, ch. 505, § 1, eff from and after July 1, 1993.

§ 67-1-11. Local option election to render chapter effective in county.

(1) Notwithstanding any provision of this chapter, the legalizing provisions of this chapter, except as authorized under Section 67-9-1 and Section 67-1-7(2), shall not be effective, applicable or operative in any county unless and until a local option election shall be called and held in such county in the manner and with the results hereinafter provided.

(2) Upon presentation and filing of a proper petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county, it shall be the duty of the board of supervisors to call an election at which there shall be submitted to the qualified electors of the county the question of whether or not the sale, distribution and possession of alcohol liquors shall be permitted in such

county as provided in this chapter. Such election shall be held and conducted by the county election commissioners on a date fixed by the order of the board of supervisors, which date shall not be more than sixty (60) days from the date of the filing of said petition. Notice thereof shall be given by publishing such notice once each week for at least three (3) consecutive weeks in some newspaper published in said county or, if no newspaper be published therein, by such publication in a newspaper in an adjoining county and having a general circulation in the county involved. The election shall be held not earlier than fifteen (15) days from the first publication of such notice.

(3) Said election shall be held and conducted as far as may be possible in the same manner as is provided by law for the holding of general elections. The ballots used thereat shall contain a brief statement of the proposition submitted and, on separate lines, the words "I vote FOR coming out from under the dry law in _____ County ()" and/or "I vote AGAINST coming out from under the dry law in _____ County ()" with appropriate boxes in which the voters may express their choice. All qualified electors may vote by marking the ballot with a cross (x) or check () mark opposite the words of their choice.

(4) The election commissioners shall canvass and determine the results of said election, and shall certify same to the board of supervisors which shall adopt and spread upon its minutes an order declaring such results. If, in such election, a majority of the qualified electors participating therein shall vote in favor of the proposition, this chapter shall become applicable and operative in such county and the manufacture, sale, distribution and possession of alcohol beverages therein shall be lawful to the extent and in the manner permitted hereby. If, on the other hand, a majority of the qualified electors participating in the election shall vote against the proposition, this chapter, except for Section 67-9-1 and 67-1-7(2), shall not become effective and operative in such county and, except as otherwise provided under Section 67-9-1 and 67-1-7(2), all laws prohibiting and regulating the manufacture, sale, distribution and possession of intoxicating liquor shall remain in full force and effect and be administered and vigorously prosecuted therein. In either case, no further election shall be held in said county under the provisions of this chapter for a period of two (2) years from the date of the prior election and then only upon the filing of a

petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county as is otherwise provided herein.

Sources: Codes, 1942, § 10265-35; Laws, 1966, ch. 540, § 35; Laws, 1996, ch. 417, § 6; Laws, 2004, ch. 397, § 3, eff from and after July 1, 2004.

§67-1-13. Local option election to render chapter ineffective in county.

(1) When this chapter has been made effective and operative in any county as a result of an election called and held as provided in Section 67-1-11, the same may be made ineffective and inapplicable therein by an election called and held upon a petition filed with the board of supervisors requesting same signed by at least twenty percent (20%) or fifteen hundred (1500), whichever number is the lesser, of the qualified electors of the county as is otherwise provided in Section 67-1-11, all of the provisions of which shall be fully applicable thereto. However, nothing herein shall authorize or permit the calling and holding of any election under this chapter in any county more often than once every two (2) years. If in such election, a majority of the qualified electors participating therein shall vote against the legalized sale of intoxicating liquor, then the prohibition laws of the State of Mississippi, except as otherwise provided under Section 67-9-1 and 67-1-7(2), shall become applicable in said county.

(2) Notwithstanding an election reinstating the prohibition laws in a political subdivision, the holder of a native wine producer's permit or a native wine retailer's permit is allowed to continue to operate under such permits and to renew such permits. Possession of native wines and personal property related to the activities of the native wine permit holder which would otherwise be unlawful under prohibition shall be allowed subject to regulations of the Alcohol Beverage Control Division.

Sources: Codes, 1942, § 10265-35; Laws, 1966, ch. 540, § 35; Laws, 1984, ch. 411; Laws, 1996, ch. 417, § 7; Laws, 2004, ch. 397, § 4, eff from and after July 1, 2004.

§ 67-1-15. Local option elections in counties having two judicial districts.

In any county having two judicial districts, each such judicial district shall be construed to be a political subdivision or subdivision of government on the same basis as a county, and as such, a judicial district will be entitled to all of the rights, privileges, and immunities as a county for the purposes of authorizing the sale of intoxicating liquor therein under the provisions of this chapter.

Sources: Codes, 1942, § 10265-35; Laws, 1966, ch. 540, § 35, eff from and after July 1, 1966.

§ 67-1-19. Administration of chapter.

The administration and enforcement of this chapter shall be vested in the state tax commission except as provided in Section 67-1-23. There is hereby created the alcohol beverage control division within and as a part of the state tax commission.

Sources: Codes, 1942, § 10265-08; Laws, 1966, ch. 540, § 8; Laws, 1980, ch. 561, § 13, eff from and after July 2, 1980.

§ 67-1-37. Powers and duties of commission.

[Until July 1, 2011, this section will read as follows:]

(1) The State Tax Commission, under its duties and powers with respect to the Alcohol Beverage Control Division therein, shall have the following powers, functions and duties:

(a) To issue or refuse to issue any permit provided for by this chapter, or to extend the permit or remit in whole or any part of the permit monies when the permit cannot be used due to a natural disaster or Act of God.

(b) To revoke, suspend or cancel, for violation of or noncompliance with the provisions of this chapter, or the law governing the production and sale of native wines, or any lawful rules and regulations of the commission issued hereunder, or for other sufficient cause, any permit issued by it under the provisions of this chapter; however, no such permit shall be revoked, suspended or cancelled except after a hearing of which the permit holder shall have been given reasonable notice and an opportunity to be heard. The board shall be authorized to suspend the permit of any permit holder for being out of compliance with an

order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or Section 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or Section 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or Section 93-11-163, as the case may be, shall control.

(c) To prescribe forms of permits and applications for permits and of all reports which it deems necessary in administering this chapter.

(d) To fix standards, not in conflict with those prescribed by any law of this state or of the United States, to secure the use of proper ingredients and methods of manufacture of alcohol beverages.

(e) To issue rules regulating the advertising of alcohol beverages in the state in any class of media and permitting advertising of the retail price of alcohol beverages.

(f) To issue reasonable rules and regulations, not inconsistent with the federal laws or regulations, requiring informative labeling of all alcohol beverages offered for sale within this state and providing for the standards of fill and shapes of retail containers of alcohol beverages; however, such containers shall not contain less than fifty (50) milliliters by liquid measure.

(g) Subject to the provisions of subsection (3) of Section 67-1-51, to issue rules and regulations governing the issuance of retail permits for premises located near or around schools, colleges, universities, churches and other public institutions, and specifying the distances therefrom within which no such permit shall be issued. The Alcohol Beverage Control Division shall not issue a package retailer's or on-premises retailer's permit for the sale or consumption of alcohol beverages in or on the campus of any public school, community or junior college, college or university.

(h) To adopt and promulgate, repeal and amend, such rules, regulations, standards, requirements and orders, not inconsistent with this chapter or any law of this state or of the United States, as it deems necessary to control the manufacture, importation, transportation, distribution and sale of alcohol liquor, whether intended for beverage or nonbeverage use in a manner not inconsistent with the provisions of this chapter or any other statute, including the native wine laws.

(i) To call upon other administrative departments of the state, county and municipal governments, county and city police departments and upon prosecuting officers for such information and assistance as it may deem necessary in the performance of its duties.

(j) To prepare and submit to the Governor during the month of January of each year a detailed report of its official acts during the preceding fiscal year ending June 30, including such recommendations as it may see fit to make, and to transmit a like report to each member of the Legislature of this state upon the convening thereof at its next regular session.

(k) To inspect, or cause to be inspected, any premises where alcohol liquors intended for sale are manufactured, stored, distributed or sold, and to examine or cause to be examined all books and records pertaining to the business conducted therein.

(l) In the conduct of any hearing authorized to be held by the commission, to hear testimony and take proof material for its information in the discharge of its duties under this chapter; to issue subpoenas, which shall be effective in any part of this state, requiring the attendance of witnesses and the production of books and records; to administer or cause to be administered oaths; and to examine or cause to be examined any witness under oath. Any court of record, or any judge thereof, may by order duly entered require the attendance of witnesses and the production of relevant books subpoenaed by the commission, and such court or judge may compel obedience to its or his order by proceedings for contempt.

(m) To investigate the administration of laws in relation to alcohol liquors in this and other states

and any foreign countries, and to recommend from time to time to the Governor and through him to the Legislature of this state such amendments to this chapter, if any, as it may think desirable.

(n) To designate hours and days when alcohol beverages may be sold in different localities in the state which permit such sale.

(o) To assign employees to posts of duty at locations where they will be most beneficial for the control of alcohol beverages, to remove, to dismiss, to suspend without pay, to act as a trial board in hearings based upon charges against employees. After twelve (12) months' service, no employee shall be removed, dismissed, demoted or suspended without just cause and only after being furnished with reasons for such removal, dismissal, demotion or suspension, and upon request given a hearing in his own defense.

(p) All hearings conducted by the commission shall be open to the public, and, when deemed necessary, a written transcript shall be made of the testimony introduced thereat.

(q) To enforce the provisions made unlawful by Sections 67-3-13, 67-3-15, 67-3-53 and 67-3-70.

(2) No alcohol beverage shall be sold or consumed at any public athletic event at any public school, community or junior college, college or university.

**[From and after July 1, 2011,
this section will read as follows:]**

(1) The State Tax Commission, under its duties and powers with respect to the Alcohol Beverage Control Division therein, shall have the following powers, functions and duties:

(a) To issue or refuse to issue any permit provided for by this chapter, or to extend the permit or remit in whole or any part of the permit monies when the permit cannot be used due to a natural disaster or Act of God.

(b) To revoke, suspend or cancel, for violation of or noncompliance with the provisions of this chapter, or the law governing the production and sale of native wines, or any lawful rules and regulations of the commission issued hereunder, or for other

sufficient cause, any permit issued by it under the provisions of this chapter; however, no such permit shall be revoked, suspended or cancelled except after a hearing of which the permit holder shall have been given reasonable notice and an opportunity to be heard. The board shall be authorized to suspend the permit of any permit holder for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a permit for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a permit suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a permit suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

(c) To prescribe forms of permits and applications for permits and of all reports which it deems necessary in administering this chapter.

(d) To fix standards, not in conflict with those prescribed by any law of this state or of the United States, to secure the use of proper ingredients and methods of manufacture of alcohol beverages.

(e) To issue rules regulating the advertising of alcohol beverages in the state in any class of media and permitting advertising of the retail price of alcohol beverages.

(f) To issue reasonable rules and regulations, not inconsistent with the federal laws or regulations, requiring informative labeling of all alcohol beverages offered for sale within this state and providing for the standards of fill and shapes of retail containers of alcohol beverages; however, such containers shall not contain less than fifty (50) milliliters by liquid measure.

(g) Subject to the provisions of subsection (3) of Section 67-1-51, to issue rules and regulations governing the issuance of retail permits for premises located near or around schools, colleges, universities, churches and other public institutions, and specifying

the distances therefrom within which no such permit shall be issued. The Alcohol Beverage Control Division shall not issue a package retailer's or on-premises retailer's permit for the sale or consumption of alcohol beverages in or on the campus of any public school, community or junior college, college or university.

(h) To adopt and promulgate, repeal and amend, such rules, regulations, standards, requirements and orders, not inconsistent with this chapter or any law of this state or of the United States, as it deems necessary to control the manufacture, importation, transportation, distribution and sale of alcohol liquor, whether intended for beverage or nonbeverage use in a manner not inconsistent with the provisions of this chapter or any other statute, including the native wine laws.

(i) To call upon other administrative departments of the state, county and municipal governments, county and city police departments and upon prosecuting officers for such information and assistance as it may deem necessary in the performance of its duties.

(j) To prepare and submit to the Governor during the month of January of each year a detailed report of its official acts during the preceding fiscal year ending June 30, including such recommendations as it may see fit to make, and to transmit a like report to each member of the Legislature of this state upon the convening thereof at its next regular session.

(k) To inspect, or cause to be inspected, any premises where alcohol liquors intended for sale are manufactured, stored, distributed or sold, and to examine or cause to be examined all books and records pertaining to the business conducted therein.

(l) In the conduct of any hearing authorized to be held by the commission, to hear testimony and take proof material for its information in the discharge of its duties under this chapter; to issue subpoenas, which shall be effective in any part of this state, requiring the attendance of witnesses and the production of books and records; to administer or cause to be administered oaths; and to examine or cause to be examined any witness under oath. Any court of record, or any judge thereof, may by order duly entered require the attendance of witnesses and the production of

relevant books subpoenaed by the commission, and such court or judge may compel obedience to its or his order by proceedings for contempt.

(m) To investigate the administration of laws in relation to alcohol liquors in this and other states and any foreign countries, and to recommend from time to time to the Governor and through him to the Legislature of this state such amendments to this chapter, if any, as it may think desirable.

(n) To designate hours and days when alcohol beverages may be sold in different localities in the state which permit such sale.

(o) To assign employees to posts of duty at locations where they will be most beneficial for the control of alcohol beverages, to remove, to dismiss, to suspend without pay, to act as a trial board in hearings based upon charges against employees. After twelve (12) months' service, no employee shall be removed, dismissed, demoted or suspended without just cause and only after being furnished with reasons for such removal, dismissal, demotion or suspension, and upon request given a hearing in his own defense.

(p) All hearings conducted by the commission shall be open to the public, and, when deemed necessary, a written transcript shall be made of the testimony introduced thereat.

(2) No alcohol beverage shall be sold or consumed at any public athletic event at any public school, community or junior college, college or university.

Sources: Codes, 1942, § 10265-17; Laws, 1966, ch. 540, § 17; Laws, 1970, ch. 549, § 1; Laws, 1971, ch. 358, § 1; Laws, 1976, ch. 467, § 14; Laws, 1988, ch. 383, § 1; Laws, 1988, ch. 562, § 1; Laws, 1992, ch. 459, § 1; Laws, 1996, ch. 507, § 15; Laws, 1997, ch. 558, § 2; reenacted and amended, 1998, ch. 520, § 1; Laws, 2002, ch. 570, § 6; Laws, 2003, ch. 392, § 1; Laws, 2005, ch. 462, § 1; Laws, 2006, ch. 529, § 3; Laws, 2007, ch. 462, § 3, eff from and after passage (approved Mar. 26, 2007.)

§ 67-1-41. Commission as a wholesale distributor and seller of alcohol beverages; exception to commission's exclusive right to sell at wholesale.

(1) The State Tax Commission is hereby created a

wholesale distributor and seller of alcohol beverages, not including malt liquors, within the State of Mississippi. It is granted the sole right to import and sell intoxicating liquors at wholesale within the state, and no person who is granted the right to sell, distribute or receive intoxicating liquors at retail shall purchase any intoxicating liquors from any source other than the commission except as authorized in subsections (4) and (9). The commission may establish warehouses, purchase intoxicating liquors in such quantities and from such sources as it may deem desirable and sell the intoxicating liquors to authorized permittees within the state including, at the discretion of the commission, any retail distributors operating within any military post or qualified resort areas within the boundaries of the state, keeping a correct and accurate record of all such transactions and exercising such control over the distribution of alcohol beverages as seem right and proper in keeping with the provisions or purposes of this chapter.

(2) No person for the purpose of sale shall manufacture, distill, brew, sell, possess, export, transport, distribute, warehouse, store, solicit, take orders for, bottle, rectify, blend, treat, mix or process any alcohol beverage except in accordance with authority granted under this chapter, or as otherwise provided by law for native wines.

(3) No alcohol beverage intended for sale or resale shall be imported, shipped or brought into this state for delivery to any person other than as provided in this chapter, or as otherwise provided by law for native wines.

(4) The commission may promulgate rules and regulations which authorize on-premises retailers to purchase limited amounts of alcohol beverages from package retailers and for package retailers to purchase limited amounts of alcohol beverages from other package retailers. The commission shall develop and provide forms to be completed by the on-premises retailers and the package retailers verifying the transaction. The completed forms shall be forwarded to the commission within a period of time prescribed by the commission.

(5) The commission may promulgate rules which authorize the holder of a package retailer's permit to permit individual retail purchasers of packages of alcohol beverages to return, for exchange, credit or refund, limited amounts of original sealed and unopened packages of

alcohol beverages purchased by the individual from the package retailer.

(6) The commission shall maintain all forms to be completed by applicants necessary for licensure by the commission at all district offices of the commission.

(7) The commission may promulgate rules which authorize the manufacturer of an alcohol beverage or wine to import, transport and furnish or give a sample of alcohol beverages or wines to the holders of package retailer's permits, on-premises retailer's permits, native wine retailer's permits and temporary retailer's permits who have not previously purchased the brand of that manufacturer from the commission. For each holder of the designated permits, the manufacturer may furnish not more than five hundred (500) milliliters of any brand of alcohol beverage and not more than three (3) liters of any brand of wine.

(8) The commission may promulgate rules disallowing open product sampling of alcohol beverages or wines by the holders of package retailer's permits and permitting open product sampling of alcohol beverages by the holders of on-premises retailer's permits. Permitted sample products shall be plainly identified "sample" and the actual sampling must occur in the presence of the manufacturer's representatives during the legal operating hours of on-premises retailers.

(9) The commission may promulgate rules and regulations that authorize the holder of a research permit to import and purchase limited amounts of alcohol beverages from importers, wineries and distillers of alcohol beverages or from the commission. The commission shall develop and provide forms to be completed by the research permittee verifying each transaction. The completed forms shall be forwarded to the commission within a period of time prescribed by the commission. The records and inventory of alcohol beverages shall be open to inspection at any time by the Director of the Alcohol Beverage Control Division or any duly authorized agent.

Sources: Codes, 1942, § 10265-18; Laws, 1966, ch. 540, § 18; Laws, 1976, ch. 467, § 15; Laws, 1988, ch. 397, § 1; Laws, 1990, ch. 479, § 1; Laws, 1992, ch. 574, § 1; Laws, 1994, ch. 538, § 2; Laws, 1998, ch. 413, § 1; Laws, 1999, ch. 408, § 1; Laws, 2006, ch. 352, § 3; Laws, 2006, ch. 529, § 4, eff from and after passage (approved Apr. 3, 2006.)

§ 67-1-51. Permits; distance regulations; prohibition on ownership of more than one package retailer's permit; prohibition on ownership of additional permits by persons living in same household.

(1) Permits which may be issued by the commission shall be as follows:

(a) Manufacturer's permit. A manufacturer's permit shall permit the manufacture, importation in bulk, bottling and storage of alcohol liquor and its distribution and sale to manufacturers holding permits under this chapter in this state and to persons outside the state who are authorized by law to purchase the same, and to sell exclusively to the commission. Manufacturer's permits shall be of the following classes:

Class 1. Distiller's and/or rectifier's permit, which shall authorize the holder thereof to operate a distillery for the production of distilled spirits by distillation or redistillation and/or to operate a rectifying plant for the purifying, refining, mixing, blending, flavoring or reducing in proof of distilled spirits and alcohol.

Class 2. Wine manufacturer's permit, which shall authorize the holder thereof to manufacture, import in bulk, bottle and store wine or vinous liquor.

Class 3. Native wine producer's permit, which shall authorize the holder thereof to produce, bottle, store and sell native wines.

(b) Package retailer's permit. Except as otherwise provided in this paragraph, a package retailer's permit shall authorize the holder thereof to operate a store exclusively for the sale at retail in original sealed and unopened packages of alcohol beverages, including native wines, not to be consumed on the premises where sold. Alcohol beverages shall not be sold by any retailer in any package or container containing less than fifty (50) milliliters by liquid measure. In addition to the sale at retail of packages of alcohol beverages, the holder of a package retailer's permit is authorized to sell at retail corkscrews, wine glasses, soft drinks, ice, juices, mixers and other beverages commonly used to mix with alcohol beverages. Nonalcohol

beverages sold by the holder of a package retailer's permit shall not be consumed on the premises where sold.

(c) On-premises retailer's permit. An on-premises retailer's permit shall authorize the sale of alcohol beverages, including native wines, for consumption on the licensed premises only. Such a permit shall issue only to qualified hotels, restaurants and clubs, and to common carriers with adequate facilities for serving passengers. In resort areas, whether inside or outside of a municipality, the commission may, in its discretion, issue on-premises retailer's permits to such establishments as it deems proper. An on-premises retailer's permit when issued to a common carrier shall authorize the sale and serving of alcohol beverages aboard any licensed vehicle while moving through any county of the state; however, the sale of such alcohol beverages shall not be permitted while such vehicle is stopped in a county that has not legalized such sales.

(d) Solicitor's permit. A solicitor's permit shall authorize the holder thereof to act as salesman for a manufacturer or wholesaler holding a proper permit, to solicit on behalf of his employer orders for alcohol beverages, and to otherwise promote his employer's products in a legitimate manner. Such a permit shall authorize the representation of and employment by one (1) principal only. However, the permittee may also, in the discretion of the commission, be issued additional permits to represent other principals. No such permittee shall buy or sell alcohol beverages for his own account, and no such beverage shall be brought into this state in pursuance of the exercise of such permit otherwise than through a permit issued to a wholesaler or manufacturer in the state.

(e) Native wine retailer's permit. A native wine retailer's permit shall be issued only to a holder of a Class 3 manufacturer's permit, and shall authorize the holder thereof to make retail sales of native wines to consumers for on-premises consumption or to consumers in originally sealed and unopened containers at an establishment located on the premises of or in the immediate vicinity of a native winery.

(f) Temporary retailer's permit. A temporary retailer's permit shall permit the purchase and resale of alcohol beverages, including native wines, during legal hours on the premises described in the temporary permit only.

Temporary retailer's permits shall be of the following classes:

Class 1. A temporary one-day permit may be issued to bona fide nonprofit civic or charitable organizations authorizing the sale of alcohol beverages, including native wine, for consumption on the premises described in the temporary permit only. Class 1 permits may be issued only to applicants demonstrating to the commission, by affidavit submitted ten (10) days prior to the proposed date or such other time as the commission may determine, that they meet the qualifications of Sections 67-1-11, 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 (excluding paragraph (e)) and 67-1-59. Class 1 permittees shall obtain all alcohol beverages from package retailers located in the county in which the temporary permit is issued. Alcohol beverages remaining in stock upon expiration of the temporary permit may be returned by the permittee to the package retailer for a refund of the purchase price upon consent of the package retailer or may be kept by the permittee exclusively for personal use and consumption, subject to all laws pertaining to the illegal sale and possession of alcohol beverages. The commission, following review of the affidavit and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2. A temporary permit, not to exceed seventy (70) days, may be issued to prospective permittees seeking to transfer a permit authorized in either paragraph (b) or (c) of this section. A Class 2 permit may be issued only to applicants demonstrating to the commission, by affidavit, that they meet

the qualifications of Sections 67-1-5(l), (m), (n), (o), (p) or (q), 67-1-37, 67-1-51(2) and (3), 67-1-55, 67-1-57 and 67-1-59. The commission, following a preliminary review of the affidavit and the requirements of the applicable statutes and regulations, may issue the permit.

Class 2 temporary permittees must purchase their alcohol beverages directly from the commission or, with approval of the commission, purchase the remaining stock of the previous permittee. If the proposed applicant of a Class 1 or Class 2 temporary permit falsifies information contained in the application or affidavit, the applicant shall never again be eligible for a retail alcohol beverage permit and shall be subject to prosecution for perjury.

(g) Caterer's permit. A caterer's permit shall permit the purchase of alcohol beverages by a person engaging in business as a caterer and the resale of alcohol beverages by such person in conjunction with such catering business. No person shall qualify as a caterer unless forty percent (40%) or more of the revenue derived from such catering business shall be from the serving of prepared food and not from the sale of alcohol beverages and unless such person has obtained a permit for such business from the Department of Health. A caterer's permit shall not authorize the sale of alcohol beverages on the premises of the person engaging in business as a caterer; however, the holder of an on-premises retailer's permit may hold a caterer's permit. When the holder of an on-premises retailer's permit or an affiliated entity of the holder also holds a caterer's permit, the caterer's permit shall not authorize the service of alcohol beverages on a consistent, recurring basis at a separate, fixed location owned or operated by the caterer, on-premises retailer or affiliated entity and an on-premises retailer's permit shall be required for the separate location. All sales of alcohol beverages by holders of a caterer's permit shall be made at the location being catered by the caterer, and such sales may be made only for consumption at the catered location. The location being catered may

be anywhere within a county or judicial district that has voted to come out from under the dry laws or in which the sale, distribution and possession of alcohol beverages is otherwise authorized by law. Such sales shall be made pursuant to any other conditions and restrictions which apply to sales made by on-premises retail permittees. The holder of a caterer's permit or his employees shall remain at the catered location as long as alcohol beverages are being sold pursuant to the permit issued under this paragraph (g), and the permittee shall have at the location the identification card issued by the Alcohol Beverage Control Division of the commission. No unsold alcohol beverages may be left at the catered location by the permittee upon the conclusion of his business at that location. Appropriate law enforcement officers and Alcohol Beverage Control Division personnel may enter a catered location on private property in order to enforce laws governing the sale or serving of alcohol beverages.

(h) Research permit. A research permit shall authorize the holder thereof to operate a research facility for the professional research of alcohol beverages. Such permit shall authorize the holder of the permit to import and purchase limited amounts of alcohol beverages from the commission or from importers, wineries and distillers of alcohol beverages for professional research.

(i) Alcohol processing permit. An alcohol processing permit shall authorize the holder thereof to purchase, transport and possess alcohol beverages for the exclusive use in cooking, processing or manufacturing products which contain alcohol beverages as an integral ingredient. An alcohol processing permit shall not authorize the sale of alcohol beverages on the premises of the person engaging in the business of cooking, processing or manufacturing products which contain alcohol beverages. The amounts of alcohol beverages allowed under an alcohol processing permit shall be set by the commission.

(j) Hospitality cart permit. A hospitality cart permit shall authorize the sale of alcohol beverages from a mobile cart on a golf course that is the holder of an on-premises retailer's permit. The alcohol beverages

sold from the cart must be consumed within the boundaries of the golf course.

(2) Except as otherwise provided in subsection (4) of this section, retail permittees may hold more than one (1) retail permit, at the discretion of the commission.

(3) Except as otherwise provided in this subsection, no authority shall be granted to any person to manufacture, sell or store for sale any intoxicating liquor as specified in this chapter within four hundred (400) feet of any church, school, kindergarten or funeral home. However, within an area zoned commercial or business, such minimum distance shall be not less than one hundred (100) feet.

A church or funeral home may waive the distance restrictions imposed in this subsection in favor of allowing issuance by the commission of a permit, pursuant to subsection (1) of this section, to authorize activity relating to the manufacturing, sale or storage of alcohol beverages which would otherwise be prohibited under the minimum distance criterion. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to execute such a waiver, and the waiver shall be filed with and verified by the commission before becoming effective.

The distance restrictions imposed in this subsection shall not apply to the sale or storage of alcohol beverages at a bed and breakfast inn listed in the National Register of Historic Places.

(4) No person, either individually or as a member of a firm, partnership, limited liability company or association, or as a stockholder, officer or director in a corporation, shall own or control any interest in more than one (1) package retailer's permit, nor shall such person's spouse, if living in the same household of such person, any relative of such person, if living in the same household of such person, or any other person living in the same household with such person own any interest in any other package retailer's permit.

Sources: Codes, 1942, §§ 10265-18, 10265-19, 10265-26; Laws, 1966, ch. 540, §§ 18, 19, 26; Laws, 1976, ch. 467, § 18; Laws, 1988, ch. 302, § 1; Laws, 1988, ch. 383, § 2; Laws, 1989, ch. 484, § 1; Laws, 1992, ch. 574, § 2; Laws, 1994, ch. 538, § 4; Laws, 1996, ch. 417, § 2; Laws, 1997, ch. 487, § 1; Laws, 2000, ch. 307, § 1; Laws, 2006,

ch. 529, § 5; Laws, 2007, ch. 462, § 8, eff from and after passage (approved Mar. 26, 2007.)

§ 67-1-57. Qualification of applicants.

Before a permit is issued the commission shall satisfy itself:

(a) That the applicant, if an individual, or if a partnership, each of the members of the partnership, or if a corporation, each of its principal officers and directors, or if a limited liability company, each member of the limited liability company, is of good moral character and, in addition, enjoys a reputation of being a peaceable, law-abiding citizen of the community in which he resides, and is generally fit for the trust to be reposed in him, is not less than twenty-one (21) years of age, and has not been convicted of a felony in any state or federal court.

(b) That, except in the case of an application for a solicitor's permit, the applicant is the true and actual owner of the business for which the permit is desired, and that he intends to carry on the business authorized for himself and not as the agent of any other person, and that he intends to superintend in person the management of the business or that he will designate a manager to manage the business for him; any manager must be approved by the commission and must possess all of the qualifications required of a permittee.

(c) That the applicant for a package retailer's permit, if an individual, is a resident of the State of Mississippi. If the applicant is a partnership, each member of the partnership must be a resident of the state. If the applicant is a limited liability company, each member of the limited liability company must be a resident of the state. If the applicant is a corporation, the designated manager of the corporation must be a resident of the state.

(d) That the place for which the permit is to be issued is an appropriate one considering the character of the premises and the surrounding neighborhood.

(e) That the place for which the permit is to be issued is within the corporate limits of an incorporated municipality or qualified resort area or club which comes within the provisions of this chapter.

(f) That the applicant is not indebted to the state for any taxes, fees or payment of penalties imposed by any law of the State of Mississippi or by any rule or regulation of the commission.

(g) That the applicant is not in the habit of using alcohol beverages to excess and is not physically or mentally incapacitated, and that the applicant has the ability to read and write the English language.

(h) That the commission does not believe and has no reason to believe that the applicant will sell or knowingly permit any agent, servant or employee to unlawfully sell liquor in a dry area or in any other manner contrary to law.

(i) That the applicant is not residentially domiciled with any person whose permit or license has been cancelled for cause within the twelve (12) months next preceding the date of the present application for a permit.

(j) That the commission has not, in the exercise of its discretion which is reserved and preserved to it, refused to grant permits under the restrictions of this section, as well as under any other pertinent provision of this chapter.

(k) That there are not sufficient legal reasons to deny a permit on the ground that the premises for which the permit is sought has previously been operated, used or frequented for any purpose or in any manner that is lewd, immoral or offensive to public decency. In the granting or withholding of any permit to sell alcohol beverages at retail, the commission in forming its conclusions may give consideration to any recommendations made in writing by the district or county attorney or county, circuit or chancery judge of the county, or the sheriff of the county, or the mayor or chief of police of an incorporated city or town wherein the applicant proposes to conduct his business and to any recommendations made by representatives of the commission.

(l) That the applicant and the applicant's key employees, as determined by the commission, do not have a disqualifying criminal record. In order to obtain a criminal record history check, the applicant shall submit to the commission a set of fingerprints

from any local law enforcement agency for each person for whom the records check is required. The commission shall forward the fingerprints to the Mississippi Department of Public Safety. If no disqualifying record is identified at the state level, the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. Costs for processing the set or sets of fingerprints shall be borne by the applicant. The commission shall not deny employment to an employee of the applicant prior to the identification of a disqualifying record or other disqualifying information.

Sources: Codes, 1942, § 10265-23; Laws, 1966, ch. 540, § 23; Laws, 1968, ch. 591, § 1; Laws, 1993, ch. 314, § 1; Laws, 2006, ch. 529, § 10, eff from and after passage (approved Apr. 3, 2006.)

§ 67-3-I. Declaration of purpose.

The purpose of this chapter is to legalize the manufacture and sale within this state of light wines and beer of an alcohol content of not more than five percent (5%) by weight, and to regulate the business of manufacturing and of selling such liquors so as to prevent the illicit manufacture, sale, and consumption of liquors having an alcohol content of more than five percent (5%) by weight, the manufacture and sale of which it is not the purpose of this chapter to legalize.

Sources: Codes, 1942, § 10211; Laws, 1934, ch. 171; Laws, 1998, ch. 306, § 3, eff from and after July 1, 1998.

§ 67-3-7. Local option elections in county.

(1) If any county, at an election held for the purpose under the election laws of the state, shall by a majority vote of the duly qualified electors voting in the election determine that the transportation, storage, sale, distribution, receipt and/or manufacture of wine and beer of an alcohol content of not more than five percent (5%) by weight shall not be permitted in such county, then the same shall not be permitted therein except as authorized under Section 67-9-1 and as may be otherwise authorized in this section. An election to determine whether such transportation, storage, sale, distribution, receipt and/or manufacture

of such beverages shall be excluded from any county in the state, shall on a petition of twenty percent (20%) of the duly qualified electors of such county, be ordered by the board of supervisors thereof, for such county only. No election on the question shall be held in any one (1) county more often than once in five (5) years.

In counties which have elected, or may elect by a majority vote of the duly qualified electors voting in the election, that the transportation, storage, sale, distribution, receipt and/or manufacture of wine or beer of an alcohol content of not more than five percent (5%) by weight shall not be permitted in said county, an election may be held in the same manner as the election hereinabove provided on the question of whether or not said transportation, storage, sale, distribution, receipt and/or manufacture of said beverages shall be permitted in such county. Such election shall be ordered by the board of supervisors of such county on a petition of twenty percent (20%) of the duly qualified electors of such county. No election on this question can be ordered more often than once in five (5) years.

(2) Nothing in this section shall make it unlawful to possess beer or wine, as defined herein, in any municipality which has heretofore or which may hereafter vote in an election, pursuant to Section 67-3-9, in which a majority of the qualified electors vote in favor of permitting the sale and the receipt, storage and transportation for the purpose of sale of beer or wine as defined herein.

(3) Nothing in this section shall make it unlawful to:

(a) Possess or consume light wine or beer at a qualified resort area as defined in Section 67-1-5;

(b) Sell, distribute and transport light wine or beer to qualified resort area as defined in Section 67-1-5;

(c) Sell light wine or beer at a qualified resort area as defined in Section 67-1-5 if such light wine or beer is sold by a person with a permit to engage in the business as a retailer of light wine or beer.

Sources: Codes, 1942, § 10208; Laws, 1934, ch. 171; Laws, 1942, ch. 224; Laws, 1956, ch. 252; Laws, 1958, ch. 279; Laws, 1996, ch. 417, § 9; Laws, 1998, ch. 306, § 5; Laws, 2004, ch. 397, § 5, eff from and after July 1, 2004.

§ 67-3-9. Local option elections in certain municipalities.

Any city in this state, having a population of not less than two thousand five hundred (2,500) according to the latest federal census, at an election held for the purpose, under the election laws applicable to such city, may either prohibit or permit, except as otherwise provided under Section 67-9-1, the sale and the receipt, storage and transportation for the purpose of sale of beer of an alcohol content of not more than five percent (5%) by weight. An election to determine whether such sale shall be permitted in cities wherein its sale is prohibited by law shall be ordered by the city council or mayor and board of aldermen or other governing body of such city for such city only, upon the presentation of a petition for such city to such governing board containing the names of twenty percent (20%) of the duly qualified voters of such city asking for such election. In like manner, an election to determine whether such sale shall be prohibited in cities wherein its sale is permitted by law shall be ordered by the city council or mayor and board of aldermen or other governing board of such city for such city only, upon the presentation of a petition to such governing board containing the names of twenty percent (20%) of the duly qualified voters of such city asking for such election. No election on either question shall be held by any one (1) city oftener than once in five (5) years.

Thirty (30) days' notice shall be given to the qualified electors of such city in the manner prescribed by law upon the question of either permitting or prohibiting such sale, said notice to contain a statement of the question to be voted on at said election. The tickets to be used in said election shall have the following words printed thereon: "For the legal sale of beer of an alcohol content of not more than five percent (5%) by weight"; and the words "Against the legal sale of beer of an alcohol content of not more than five percent (5%) by weight," next below. In making up his ticket the voter shall make a cross (X) opposite the words of his choice.

If in said election a majority of the qualified electors voting in the election shall vote "For the legal sale of beer of an alcohol content of not more than five percent (5%) by weight," then the city council or mayor and board of aldermen or other governing body shall pass the necessary order permitting the legal sale of such beer in such city. If

in said election a majority of the qualified electors voting in the election shall vote "Against the legal sale of beer of an alcohol content of not more than five percent (5%) by weight," then the city council or mayor and board of aldermen or other governing body shall pass the necessary order prohibiting the sale of such beer in such city.

All laws or parts of laws in conflict with this section are hereby repealed to the extent of such conflict only, this section being cumulative and supplementary.

Sources: Codes, 1942, § 10208.5; Laws, 1950, ch. 501, §§ 1-3; Laws, 1996, ch. 417, § 10; Laws, 1998, ch. 306, § 6, eff from and after July 1, 1998.

§ 67-3-27. Licenses.

Before any person shall engage in the business of manufacturer, wholesaler, distributor or retailer of light wines or beer, he shall apply to the commissioner for a license to engage in such business, and shall pay to the commissioner the specific tax imposed by Section 27-71-303, for the privilege of engaging in such business. The commissioner upon receipt of such tax shall issue to such person a privilege license to engage in or continue in such business for a period of time not to exceed one (1) year. No such license shall be issued to the applicant unless such applicant shall have obtained from the commissioner a permit as required in Section 67-3-17. A brewpub shall obtain all necessary federal licenses and permits prior to obtaining any license under this chapter.

All privilege licenses issued under the provisions of this section shall be renewed annually on or before the first day of the month in which the current license expires.

Sources: Codes, 1942, § 10239; Laws, 1934, ch. 127; Laws, 1979, ch. 423, § 3; Laws, 1998, ch. 308, § 9, eff from and after July 1, 1998.

§ 67-3-53. Unlawful acts.

In addition to any act declared to be unlawful by this chapter, or by Sections 27-71-301 through 27-71-347, and Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be unlawful for the holder of a permit authorizing the sale of beer or light wine at retail or for the employee of the holder of such a permit:

- (a) To sell or give to be consumed in or upon any licensed premises any beer or light wine between the

hours of midnight and seven o'clock the following morning or during any time the licensed premises may be required to be closed by municipal ordinance or order of the board of supervisors; provided, however, in areas where the sale of alcohol beverages is legal under the provisions of the Local Option Alcohol Beverage Control Law and the hours for selling such alcohol beverages have been extended beyond midnight for on-premises permittees under Section 67-1-37, the hours for selling beer or light wines are likewise extended in areas where the sale of beer and light wines is legal in accordance with the provisions of this chapter.

- (b) To sell, give or furnish any beer or light wine to any person visibly or noticeably intoxicated, or to any insane person, or to any habitual drunkard, or to any person under the age of twenty-one (21) years.

- (c) To permit in the premises any lewd, immoral or improper entertainment, conduct or practices.

- (d) To permit loud, boisterous or disorderly conduct of any kind upon the premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community wherein such business is located.

- (e) To permit persons of ill repute, known criminals, prostitutes or minors to frequent the licensed premises, except minors accompanied by parents or guardians, or under proper supervision.

- (f) To permit or suffer illegal gambling or the operation of illegal games of chance upon the licensed premises.

- (g) To receive, possess or sell on the licensed premises any beverage of any kind or character containing more than five percent (5%) of alcohol by weight unless the licensee also possesses an on-premises permit under the Local Option Alcohol Beverage Control Law.

Sources: Codes, 1942, § 10223; Laws, 1934, ch. 171; Laws, 1944, ch. 133, §§ 2-4; Laws, 1974, ch. 568; Laws, 1985, ch. 431, § 1; Laws, 1991, ch. 368, § 3; Laws, 1995, ch. 398, § 1; Laws, 1998, ch. 306, § 10, eff from and after July 1, 1998.

§ 67-3-65. Powers of local governments.

Municipalities may enforce such proper rules and regulations for fixing zones and territories, prescribing hours of opening and of closing, and for such other measures as will promote public health, morals, and safety, as they may by ordinance provide. The board of supervisors of any county may make such rules and regulations as to territory outside of municipalities as are herein provided for municipalities.

Nothing in this chapter shall prohibit the governing body of any municipality from designating what territory surrounding churches and schools in said municipalities, and the board of supervisors of any county from designating what territory surrounding churches and schools outside of any municipality, in which light wines and beer shall not be sold or consumed.

Sources: Codes, 1942, §§ 10224, 10228; Laws, 1934, ch. 171.

Chapter 03. Permitted Premises Where Alcohol Beverages Are Sold

- 100 The minimum distances provided in Section 67-1-51(3), Mississippi Code of 1972, as amended, shall be measured from the nearest point of the building housing the church, school, kindergarten or funeral home to the nearest point of the premises which consist of the floor planned area to be licensed by the Commission. This distance shall be measured in a straight line, such as air line distance, rather than the usual route of pedestrian travel.
- 101 No person shall sell or offer for sale any alcohol beverages within four hundred (400) feet of any church, school, kindergarten, or funeral home, provided, however, within an area in which both the premises and the church, school, kindergarten, or funeral home are zoned commercial or industrial such minimum distance shall not be less than one hundred (100) feet.
- 102 In instances in which a church, school, kindergarten or funeral home is located in a residential district and the place of sale of any alcohol beverages shall be located in an adjacent commercial or industrial district, such minimum distance between the place

of sale of the aforesaid alcohol beverages and the church, school, kindergarten or funeral home shall be four hundred (400) feet.

- 103 Effective June 1, 1996, any location at which any alcohol beverages are lawfully being presently offered for sale which does not conform to the above mentioned provisions shall be permitted to continue such sales, until such time as the business is abandoned for a six month period.
- 104 A church or funeral home may waive the distance restrictions in favor of allowing issuance by the commission of a permit authorizing the sale of alcohol beverages that would otherwise be prohibited under the minimum distance requirements. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to execute such a waiver, and the waiver shall be filed with and verified by the commission before becoming effective.
- 105 A door must be located at or near the front of every place of business selling packaged alcohol beverages. The back door to such place of business or storage area must be kept locked at all times except when merchandise is being received. In cases of orders or ordinances of a governing authority forbidding the locking of a back door because of a fire hazard, the Commission will make exceptions to this rule.
- 106 Surplus stock must be stored in the same building where the retail business is being conducted, but nothing shall prohibit the owner or manager of such a place of business from erecting a partition between the retail and the storage area thereof. In the event that a permittee has multiple permits for a business establishment and there is controlled access to all areas of the establishment, the permittee may use a common storage facility located and identified on the floor planned area for all alcohol beverages purchased.
- 107 A permittee utilizing a common storage facility for a business establishment with multiple permits must submit a floor plan of the common storage facility that designates where alcohol beverages

purchased under each permit will be stored. Co-mingling of the permitted inventories by the multiple permittee shall result in the suspension or revocation of the permits.

108 All sales of alcohol beverages shall be made inside the permitted premises.

109 Under very limited circumstances, a permittee may request a waiver from the State Tax Commission to authorize the storage of surplus alcohol beverages in a location that is separate from the building where the retail business is being conducted. Any off-site storage exception or waiver request must be approved by the Commission and spread upon the Commission's minutes in order to be ratified. A request for a waiver must meet the following requirements:

1. The off-site storage location must meet all distance requirements of Mississippi Code Annotated Section 67-1-51 in the same manner as the retail premises as well as all local ordinances pertaining to zoning. Further, the proximity of the off-site storage location to the permittee's retail premises shall be considered by the Commission.
2. All entrances and any other access to the storage facility must remain secure and locked at all times, except when merchandise is being received or transferred to the retail location. The Commission may request a floor plan of the off-site location as well as a copy of the permittee's deed or lease to ensure that permittee can accomplish restricted access to the off-site location.
3. The exclusive use of the off-premises location must be storage of surplus alcohol beverage inventory and items authorized for sale by Title 35 of the Mississippi Administrative Code, Part II, Subpart 1, Chapter 23. There shall be no other use of the off-site storage location.
4. A permittee utilizing an off-site storage location for a business establishment with multiple permits must submit a floor plan of the facility that designates where alcohol beverages

purchased under each permit will be stored at the off-premises location. Co-mingling of the permitted inventories by a multiple permittee shall result in the suspension or revocation of the permits.

5. The permittee must demonstrate a specific, articulable business necessity for the waiver request as the same relates to the shelf/storage space and inventory cycles of the permittee's retail premises.

110 In addition to the above, the Commission may request any other documentation from the permittee deemed relevant for consideration of a waiver request to ensure compliance with all ABC laws and regulations. On a case-by-case basis, any waiver granted pursuant to this regulation may be subject to special conditions imposed by the Commission. The Commission may revoke a waiver for an off-site storage location at any time. The permittee will be notified of the revocation in writing.

111 (Reserved)

Chapter 04. Hours And Days During Which Alcohol Beverages May Be Sold By Hotels, Restaurants, Clubs, Package Stores And Caterers

100 On-premise permittees or clubs or caterers may make sales of alcohol beverages at the permitted location between the hours of 10:00 a.m. and midnight, except that no sales or deliveries of alcohol beverages shall be made to any person on Sundays. It is further provided that on New Year's Eve, on-premises permittees and clubs may be allowed to remain open until 1:00 a.m., January 1st. In the event that New Year's Eve falls on Sunday, on-premises permittees and clubs may make sales of alcohol beverages at the permitted location between the hours of 1:00 p.m. and 1:00 a.m. Provided, however, the governing body of any municipality may petition the State Tax Commission to permit sales by on-premises permittees or clubs located within the municipality at other times, and

also the hours of sale may, with the approval of the State Tax Commission, be either shortened or extended. In the event that a municipality or county would prefer not to recognize the extension of hours on New Year's Eve when the holiday falls on Sunday, the municipality or county shall notify the Alcohol Beverage Control Enforcement Section, in writing, no later than September 1 of that year. The Board of Supervisors of any county may file such a petition with the State Tax Commission for on-premises permittees or clubs located outside a municipality. All such petitions must be accompanied by a certified copy of the order of the municipal governing authority or the Board of Supervisors requesting such permission.

101 Resort areas are exempt from the above provisions requiring the sale of alcohol beverages to be between the hours of 10:00 a.m. and midnight. However, the governing body of any municipality may petition the State Tax Commission to designate the hours of sale of alcohol beverages for a resort area on-premises permittees or clubs located within the municipality. The Board of Supervisors of any county may also file such a petition with the State Tax Commission for resort area on-premises permittees or clubs located outside a municipality. Upon receipt of the above mentioned petitions, or upon its own motion, the Commission shall consider the same and set whatever hours of sale it deems appropriate for any particular resort area. All such petitions must be accompanied by a certified copy of the resolution of the municipal governing authority or the Board of Supervisors requesting such permission.

102 It shall be unlawful for any holder of a package retailer's permit (or any employee or agent thereof) to sell, give away, deliver or barter any alcohol beverages before 10:00 a.m. and after 10:00 p.m., or on any Sunday, or on Christmas Day.

103 (Reserved)

Chapter 07. Temporary And Qualified Resort Areas

100 Temporary Resort Area:

1. The Commission is authorized to approve a certain area or locality outside the limits of an incorporated municipality as a temporary resort area if the particular location is in the process of being developed as a qualified resort area. Approval of this type of resort designation is contingent upon the applicant's submitting the following:
 - a. A resolution from the Board of Supervisors of the county where such proposed area is located. The resolution must specifically state that the Board is of the opinion that the area in question is in the process of being developed as a resort area. In addition, the resolution must set forth the basis for the Board's conclusion.
 - b. A map clearly marked to indicate the specific area under consideration.
 - c. A list of steps taken or to be taken in developing the area as a qualified resort area.
 - d. Endorsements by civic clubs in the area under consideration.
 - e. Assurance from the Sheriff of the area that he will enforce the Local Option Alcohol Beverage Control Laws of the State of Mississippi, and the rules and regulations of the Alcohol Beverage Control Division in such area.
 - f. Proof of publication of legal notice and all public opinion responses. Legal notice must be printed once each week for two consecutive weeks in a newspaper having general circulation in the area. The notice must state that an application for classification as a temporary resort area is being filed, the contents of the application, and a request for public opinion from residents in the area under consideration, and that approval will permit the operation of open bars in the area.

2. The temporary resort area designation is for a term of one year. Prior to the expiration of the year period, the applicant must establish and prove that the proposed area meets all of the statutory qualifications for a qualified resort area.

101 Qualified Resort Area:

1. A qualified resort area must be clearly established, understood and agreed upon by the resort area community. A community may be considered for a qualified resort area classification by the State Tax Commission by submitting a proper application.
2. The application must be submitted by the President of the Board of Supervisors or the Mayor or Mayors of the municipality or municipalities affected. In the event the President of the Board of Supervisors or the Mayor refuses to submit such application, the same may be submitted by not less than 100 adult citizens of the community to be affected, and shall in each instance include the following items:
 - a. A map clearly marked to indicate the specific area under consideration.
 - b. Reasons why the particular area should be classified as a qualified resort area.
 - c. Endorsements by civic clubs in the area under consideration.

- d. Assurance from the Sheriff or Sheriffs of the area that he will enforce the Local Option Alcohol Beverage Control Laws of the State of Mississippi, and the rules and regulations of the Alcohol Beverage Control Division in such area. If the area is located within a municipality, such assurance shall also be given by the Chief of Police of such municipality or municipalities.
- e. A certified copy of the order or orders as entered on the minute books of the governing body.
- f. Proof of publication of legal notices and all public opinion responses. Legal notice must be printed once each week for two consecutive weeks in a newspaper having general circulation in the area. The notice must state that an application for classification as a qualified resort area is being filed, the contents of the application, and a request for public opinion from residents in the area under consideration, and that approval will permit the operation of open bars in the area.
3. Adjacent or affected areas may either join in or file objections to the application with the Commission.

102 (Reserved)

FOOTNOTES

¹ § 67-1-3
² § 67-1-19
³ § 67-1-41
⁴ § 67-3-1
⁵ § 67-3-7
⁶ § 67-1-5
⁷ § 67-3-27
⁸ § 27-71-345
⁹ § 67-3-7; § 67-3-9; § 67-1-11; § 67-1-13; § 67-1-15
¹⁰ § 67-1-19; § 67-1-37
¹¹ § 67-1-57
¹² § 67-1-37(n); 35.II.01.04 MAC

¹³ § 67-3-53
¹⁴ § 67-3-65
¹⁵ § 67-3-53
¹⁶ § 67-1-51(3); 35.II.1.03, MAC
¹⁷ § 67-3-65
¹⁸ § 67-1-5(o); 67-1-7(1b); 35.II.1.04 and 35.II.2.07 MAC
¹⁹ § 67-1-5(m)
²⁰ § 67-1-51(g)
²¹ § 67-1-11
²² § 67-1-13
²³ § 67-3-7
²⁴ § 67-3-9
²⁵ § 27-71-5(2)